

### **REMARKS/ARGUMENTS**

These remarks are responsive to the non-final Office Action dated October 26, 2009. Claims 50, 53, 54, 56, 57 and 65 have been amended. No new matter has been added. Claims 1, 4-6, 11, 32-34, 40-50, 53, 54, 56-63, and 65 are pending in this application. Reconsideration, entry of the amendments and allowance of the instant application are respectfully requested.

#### ***Claim Rejection Under 35 U.S.C. §101***

Claims 50, 53, 54, 56 and 57 stand rejected as being directed to non-statutory subject matter. Applicants have amended claim 50 and its dependent claims to be in a more preferred form. Accordingly, withdrawal of this rejection is respectfully requested.

#### ***Claim Rejections Under 35 U.S.C. §103(a)***

Claims 1, 4, 5, 11, 32-34, 40-50, 53, 56-63, and 65 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fink *et al.* (U.S. Patent No. 6,496,935, "Fink") in view of Joyce (U.S. Patent No. 6,519,703, "Joyce") and Baum *et al.* (U.S. Patent No. 6,400,707, "Baum"). These rejections are respectfully traversed.

Amended independent claim 1 recites, among other features, a firewall configured to classify data packets including determining whether at least one of the data packets includes content for a real-time audio or video data stream. The Office Action concedes at p. 8 that neither Fink nor Joyce discloses classifying received data including determining whether at least one of the data packets includes content for real-time audio or video data stream. Instead, the Office Action relies upon Baum, citing col. 2, ll. 41-59, col. 5, ll. 61 and 62 and col. 6, ll. 25-57. Accordingly, claim 1 is allowable for at least these reasons. However, none of the cited passages or any other passage of Baum teaches or suggests the classification of data packets including determining whether data packets include content for real-time audio or video. For example, Baum merely describes that the data packets may include audio or video at col. 2, ll. 41-59, and does not teach or suggest that classification of a data packet includes determining whether that data packet includes audio or video. Even Baum's description of a rule based packet filter (Col. 5, ll. 61-62) fails to teach or suggest that the filter determines whether a packet includes audio or video in classifying that packet. Baum's system relates to the generation of filter parameters

based on set-up signaling dialog and does not teach or suggest the consideration of whether a packet includes audio or video in classifying the packet. Moreover, the mere description of the existence of audio or video packets does not constitute a process of classifying data packets that includes determining whether the data packets include audio or video, as recited in claim 1. Thus, notwithstanding whether the cited documents are properly combinable, the asserted combination would not have resulted in the features as recited in claim 1.

Claims 49, 50 and 62 recite features similar to those discussed above with respect to claim 1 and is thus allowable for at least the same reasons as claim 1.

Claims 4, 5, 11, 32-34, 40-48, 53, 56-60, 61, 63 and 65 are dependent claims and are thus allowable for at least the same reasons as their respective base claims and further in view of the novel and non-obvious features recited therein.

Claims 6 and 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fink, Joyce and Baum and further in view of Lyle (U.S. Patent No. 6,886,012, "Lyle"). These rejections are respectfully traversed.

As discussed above Fink and Joyce do not disclose all of the features of claims 1 and 50. Lyle does not cure the deficiencies of Fink and Joyce. Thus, claims 1 and 50 are patentably distinct over Fink in view of Joyce in further view of Lyle. Claims 6 and 54 depend from claims 1 and 50, respectively, and are patentably distinct over Fink in view of Joyce and Lyle for at least the reasons as their ultimate base claim, and for the additional features recited therein.

**CONCLUSION**

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

Dated: January 26, 2010  
1100 13<sup>th</sup> St. N.W.  
Washington, D.C. 20005-4051  
Tel: (202) 824-3000

By: /Chunhsi Andy Mu/  
Chunhsi Andy Mu, Reg. No. 58,216